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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,686	01/27/2004	Daniel L. Riffe	2017	1450

7590 12/13/2004

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EXAMINER

FENSTERMACHER, DAVID MORGAN

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/765,686	Applicant(s) RIFFE, DANIEL L. PM	
	Examiner David M. Fenstermacher	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first action on the merits. Claims 1-6 are pending.

Drawings

2. The drawings, as originally filed, are acceptable as formal.

Specification

3. The abstract of the disclosure is objected to because “co-efficient-of” should be – coefficient of –

Correction is required. See MPEP § 608.01(b).

4. The substitute specification filed 1/27/04 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: there is no statement that the substitute specification does not contain new matter.

5. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the original specification contains numerous errors as evidenced by the non-entered substitute specification. Also note that Page 1, “ACN 09/948,849” should be –Application Control Number 09/948,849—in the new specification.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject

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matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and **a statement that the substitute specification contains no new matter must also be supplied**. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Claim Objections

6. Claim 3 is objected to because of the following informalities: Claim 3, line 2, "includes linkage" should be --includes a linkage--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 1 is indefinite. It would seem that the device releases "from" a cocked position "to" another position. The preamble must be re-worded for clarity.

Claim 1, line 1, "its" is indefinite since it is not clear what "it" is. This is throughout the claims. The use of "it" or "its" leads to confusion. The structure to which this refers to should be recited.

Claim 1, line 2, "of an apparatus" is indefinite. The claim is defining an apparatus; therefore, it is not clear what Applicant is referring to.

Claim 1, line 2, "a standard" is indefinite. It is not clear what Applicant is referring to. The use of this language is throughout the claims. (e.g. Claim 1, line 9; Claim 1, line 14; Claim 4, line 2; review for other occurrences).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Strong (4,662,211).

Strong shows the claimed invention including a wheel (26) which engages a road surface (32) for the purpose of determining the coefficient of friction of the road surface; the wheel is driven by a belt (142); the system determines the friction electronically (see

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figure 5A); the tripping and recocking mechanism being in the form of a winch (54) and a cable (56); the wheel rides on a bearing (not shown, but inherent); a plurality of frame members (e.g. 18) are provided which hold the device.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rath; Takahashi et al.; Johnsen; Brandon; Benningand and Kummer show friction measuring devices.

Browne et al. shows a raising and lowering device for a road vehicle.

12. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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on _____
(Date)

Typed or printed name of person signing this certificate:

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Signature: _____

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(Date)

Typed or printed name of person signing this certificate:


Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Fenstermacher whose telephone number is 703-305-7438. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David M. Fenstermacher
Primary Examiner 12/9/04
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